

Senate Engrossed

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1355

AN ACT

AMENDING SECTION 13-604.01, ARIZONA REVISED STATUTES; RELATING TO DANGEROUS  
CRIMES AGAINST CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-604.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-604.01. Dangerous crimes against children: sentences:  
5 definitions

6 A. A person who is at least eighteen years of age and who stands  
7 convicted of a dangerous crime against children in the first degree involving  
8 sexual assault of a minor who is twelve years of age or younger or sexual  
9 conduct with a minor who is twelve years of age or younger shall be sentenced  
10 to life imprisonment and is not eligible for suspension of sentence,  
11 probation, pardon or release from confinement on any basis except as  
12 specifically authorized by section 31-233, subsection A or B until the person  
13 has served thirty-five years or the sentence is commuted. This subsection  
14 does not apply to masturbatory contact.

15 B. Except as otherwise provided in this section, a person who is at  
16 least eighteen years of age or who has been tried as an adult and who stands  
17 convicted of a dangerous crime against children in the first degree involving  
18 attempted first degree murder of a minor who is under twelve years of age,  
19 second degree murder of a minor who is under twelve years of age, sexual  
20 assault of a minor who is under twelve years of age, sexual conduct with a  
21 minor who is under twelve years of age or manufacturing methamphetamine under  
22 circumstances that cause physical injury to a minor who is under twelve years  
23 of age may be sentenced to life imprisonment and is not eligible for  
24 suspension of sentence, probation, pardon or release from confinement on any  
25 basis except as specifically authorized by section 31-233, subsection A or B  
26 until the person has served thirty-five years or the sentence is commuted.  
27 If a life sentence is not imposed pursuant to this subsection, the person  
28 shall be sentenced to a presumptive term of imprisonment for twenty years.

29 C. Except as otherwise provided in this section, a person who is at  
30 least eighteen years of age or who has been tried as an adult and who stands  
31 convicted of a dangerous crime against children in the first degree involving  
32 attempted first degree murder of a minor who is twelve, thirteen or fourteen  
33 years of age, second degree murder of a minor who is twelve, thirteen or  
34 fourteen years of age, sexual assault of a minor who is twelve, thirteen or  
35 fourteen years of age, taking a child for the purpose of prostitution, child  
36 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen  
37 years of age, continuous sexual abuse of a child, sex trafficking of a minor  
38 who is under fifteen years of age or manufacturing methamphetamine under  
39 circumstances that cause physical injury to a minor who is twelve, thirteen  
40 or fourteen years of age or involving or using minors in drug offenses shall  
41 be sentenced to a presumptive term of imprisonment for twenty years. If the  
42 convicted person has been previously convicted of one predicate felony the  
43 person shall be sentenced to a presumptive term of imprisonment for thirty  
44 years.

1           D. Except as otherwise provided in this section, a person who is at  
2 least eighteen years of age or who has been tried as an adult and who stands  
3 convicted of a dangerous crime against children in the first degree involving  
4 aggravated assault, molestation of a child, commercial sexual exploitation of  
5 a minor, sexual exploitation of a minor, child abuse or kidnapping shall be  
6 sentenced to a presumptive term of imprisonment for seventeen years. If the  
7 convicted person has been previously convicted of one predicate felony the  
8 person shall be sentenced to a presumptive term of imprisonment for  
9 twenty-eight years.

10          E. Except as otherwise provided in this section, a person who is at  
11 least eighteen years of age or who has been tried as an adult and who stands  
12 convicted of a dangerous crime against children involving luring a minor for  
13 sexual exploitation pursuant to section 13-3554 is guilty of a class 3 felony  
14 and shall be sentenced to a presumptive term of imprisonment for ten years  
15 and, unless the person has previously been convicted of a predicate felony,  
16 the presumptive term may be increased or decreased by up to five years  
17 pursuant to section 13-702, subsections B, C and D. If the person is  
18 sentenced to a term of imprisonment the person is not eligible for release  
19 from confinement on any basis except as specifically authorized by section  
20 31-233, subsection A or B until the sentence imposed by the court has been  
21 served, the person is eligible for release pursuant to section 41-1604.07 or  
22 the sentence is commuted. If the convicted person has been previously  
23 convicted of one predicate felony the person shall be sentenced to a  
24 presumptive term of imprisonment for fifteen years and is not eligible for  
25 suspension of sentence, probation, pardon or release from confinement on any  
26 basis except as specifically authorized by section 31-233, subsection A or B  
27 until the sentence imposed by the court has been served, the person is  
28 eligible for release pursuant to section 41-1604.07 or the sentence is  
29 commuted.

30          F. Except as otherwise provided in this section, a person who is at  
31 least eighteen years of age or who has been tried as an adult and who stands  
32 convicted of a dangerous crime against children involving sexual abuse under  
33 section 13-1404 or bestiality under section 13-1411, subsection A, paragraph  
34 2 is guilty of a class 3 felony and shall be sentenced to a presumptive term  
35 of imprisonment for five years, and unless the person has previously been  
36 convicted of a predicate felony, the presumptive term may be increased or  
37 decreased by up to two and one-half years pursuant to section 13-702,  
38 subsections B, C and D. If the person is sentenced to a term of imprisonment  
39 the person is not eligible for release from confinement on any basis except  
40 as specifically authorized by section 31-233, subsection A or B until the  
41 sentence imposed by the court has been served, the person is eligible for  
42 release pursuant to section 41-1604.07 or the sentence is commuted. If the  
43 convicted person has been previously convicted of one predicate felony the  
44 person shall be sentenced to a presumptive term of imprisonment for fifteen  
45 years and is not eligible for suspension of sentence, probation, pardon or

1 release from confinement on any basis except as specifically authorized by  
2 section 31-233, subsection A or B until the sentence imposed by the court has  
3 been served, the person is eligible for release pursuant to section  
4 41-1604.07 or the sentence is commuted.

5 G. The presumptive sentences prescribed in subsections B, C and D of  
6 this section or subsections E and F of this section if the person has  
7 previously been convicted of a predicate felony may be increased or decreased  
8 by up to seven years pursuant to the provisions of section 13-702,  
9 subsections B, C and D.

10 H. Except as provided in subsection F of this section, a person  
11 sentenced for a dangerous crime against children in the first degree pursuant  
12 to this section is not eligible for suspension of sentence, probation, pardon  
13 or release from confinement on any basis except as specifically authorized by  
14 section 31-233, subsection A or B until the sentence imposed by the court has  
15 been served or commuted.

16 I. A person who stands convicted of any dangerous crime against  
17 children in the first degree pursuant to subsection C or D of this section  
18 and who has been previously convicted of two or more predicate felonies shall  
19 be sentenced to life imprisonment and is not eligible for suspension of  
20 sentence, probation, pardon or release from confinement on any basis except  
21 as specifically authorized by section 31-233, subsection A or B until the  
22 person has served not fewer than thirty-five years or the sentence is  
23 commuted.

24 J. Notwithstanding chapter 10 of this title, a person who is at least  
25 eighteen years of age or who has been tried as an adult and who stands  
26 convicted of a dangerous crime against children in the second degree pursuant  
27 to subsection B, C or D of this section is guilty of a class 3 felony and  
28 shall be sentenced to a presumptive term of imprisonment for ten years. The  
29 presumptive term may be increased or decreased by up to five years pursuant  
30 to section 13-702, subsections B, C and D. If the person is sentenced to a  
31 term of imprisonment the person is not eligible for release from confinement  
32 on any basis except as specifically authorized by section 31-233, subsection  
33 A or B until the person has served the sentence imposed by the court, the  
34 person is eligible for release pursuant to section 41-1604.07 or the sentence  
35 is commuted. A person who is convicted of any dangerous crime against  
36 children in the second degree and who has been previously convicted of one or  
37 more predicate felonies is not eligible for suspension of sentence,  
38 probation, pardon or release from confinement on any basis except as  
39 specifically authorized by section 31-233, subsection A or B until the  
40 sentence imposed by the court has been served, the person is eligible for  
41 release pursuant to section 41-1604.07 or the sentence is commuted.

42 K. Section 13-604, subsections M and O apply to the determination of  
43 prior convictions.

1 L. The sentence ~~that is~~ imposed on a person by the court for a  
2 dangerous crime against children under subsection D of this section ~~and that~~  
3 ~~involves~~ INVOLVING child molestation or sexual abuse pursuant to subsection F  
4 of this section may be served concurrently with other sentences if the  
5 offense involved only one victim. The sentence imposed on a person for any  
6 other dangerous crime against children in the first or second degree shall be  
7 consecutive to any other sentence imposed on the person at any time,  
8 including child molestation and sexual abuse of the same victim.

9 M. In this section, for purposes of punishment an unborn child shall  
10 be treated like a minor who is under twelve years of age.

11 N. For the purposes of this section:

12 1. "Dangerous crime against children" means any of the following that  
13 is committed against a minor who is under fifteen years of age:

14 (a) Second degree murder.

15 (b) Aggravated assault resulting in serious physical injury or  
16 involving the discharge, use or threatening exhibition of a deadly weapon or  
17 dangerous instrument.

18 (c) Sexual assault.

19 (d) Molestation of a child.

20 (e) Sexual conduct with a minor.

21 (f) Commercial sexual exploitation of a minor.

22 (g) Sexual exploitation of a minor.

23 (h) Child abuse as prescribed in section 13-3623, subsection A,  
24 paragraph 1.

25 (i) Kidnapping.

26 (j) Sexual abuse.

27 (k) Taking a child for the purpose of prostitution as prescribed in  
28 section 13-3206.

29 (l) Child prostitution as prescribed in section 13-3212.

30 (m) Involving or using minors in drug offenses.

31 (n) Continuous sexual abuse of a child.

32 (o) Attempted first degree murder.

33 (p) Sex trafficking.

34 (q) Manufacturing methamphetamine under circumstances that cause  
35 physical injury to a minor.

36 (r) Bestiality as prescribed in section 13-1411, subsection A,  
37 paragraph 2.

38 (s) Luring a minor for sexual exploitation.

39 A dangerous crime against children is in the first degree if it is a  
40 completed offense and is in the second degree if it is a preparatory offense,  
41 except attempted first degree murder is a dangerous crime against children in  
42 the first degree.

1           2. "Predicate felony" means any felony involving child abuse pursuant  
2 to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct  
3 involving the intentional or knowing infliction of serious physical injury or  
4 the discharge, use or threatening exhibition of a deadly weapon or dangerous  
5 instrument, or a dangerous crime against children in the first or second  
6 degree.